THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO.634 of 2006

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10th January 2006

Between:

Smt. P. Lakshmi W/o Late Eswara Rao,
D. No. 9-1-162/1, Main Road, Old Gajuwaka, Visakhapatnam-26.

...PETITIONER

AND

The Municipal Commissioner, Municipal Corporation of Visakhapatnam,
Visakhapatnam District.

...RESPONDENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO.634 of 2006

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus to declare the action of the respondent in dispossessing the petitioner from her respective premises for the purpose of road widening without following due process of law as illegal.

The learned counsel for the petitioner submits that the petitioner is the absolute owner and possessor of the premises in D.No.9-1-162/1, Main Road, Old Gajuwaka municipality. Recently, the Gajuwaka Municipality merged into Visakhapatnam Municipal Corporation from November 2005 on account of the proposed "Greater Visakha". In view of the traffic congestion and to have free flow of traffic, the Visakhapatnam Municipal Corporation has decided to widen the roads, for which they have identified certain roads in the entire Visakhapatnam Municipal Corporation. The learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondent and she has no objection for the said programme if her land is acquired and if proper compensation is paid.

The only grievance of the petitioner is that the respondent, without issuing any

notices, without paying any compensation for her structures or the lands and without following due process of law, is threatening her to demolish the existing structures of the petitioner for the purpose of road widening.

The learned counsel for the petitioner further submits that the action of the respondent, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894, is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act ('the Act' for brevity).

This Court disposed of number of Writ Petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case, the Writ Petition is disposed of directing the respondent not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess her without following due process of law under Sections 146 and 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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(V.ESWARAIAH, J)

10th January 2006

RRB